

## CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number \_\_\_\_\_

Meeting Type: Regular

Meeting Date: 5/24/2012

Action Requested By:  
Legal

Agenda Item Type  
Resolution

Subject Matter:

Mod. 2 to SDA TIF5 Series 2012-A

Exact Wording for the Agenda:

Resolution authorizing the Mayor to enter into Modification No. 2 to Supplemental Development Agreement TIF5 Series 2012-A between the City of Huntsville and LW Redstone.

**Note: If amendment, please state title and number of the original**

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost: 189,070

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: \_\_\_\_\_

Date: \_\_\_\_\_

RESOLUTION NO. 12-\_\_\_\_\_

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into a Modification No. 2 to Supplemental Development Agreement by and between the City of Huntsville and LW Redstone Company, LLC, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Modification No. 2 to Supplemental Development Agreement TIF5 Series 2012-A between the City of Huntsville and LW Redstone Company, LLC," consisting of three (3) pages and the date of May 24, 2012, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 24th day of May, 2012.

\_\_\_\_\_  
President of the City Council of  
the City of Huntsville, Alabama

APPROVED this the 24th day of May, 2012.

\_\_\_\_\_  
Mayor of the City of  
Huntsville, Alabama

STATE OF ALABAMA )

COUNTY OF MADISON )

**MODIFICATION NO. 2 TO  
SUPPLEMENTAL DEVELOPMENT  
AGREEMENT TIF5 – SERIES  
2012-A TO ANNEXATION AND DEVELOPMENT  
AGREEMENT BETWEEN THE CITY OF  
HUNTSVILLE AND LW REDSTONE  
COMPANY, LLC, AS ADOPTED  
AND APPROVED BY RESOLUTION  
NO. 12-64 ON JANUARY 26<sup>TH</sup>, 2012.**

Pursuant to Section 7.3 of the Annexation and Development Agreement dated March 25, 2010, ("Agreement"), between THE CITY OF HUNTSVILLE, ALABAMA, a municipal corporation organized and existing pursuant to the laws of the State of Alabama ("City") and L W REDSTONE COMPANY, LLC, a Delaware limited liability company ("Owner"), City and Owner enter into this Modification No.2 to the Supplemental Development Agreement (SDA) TIF5 Series 2012-A, which was previously adopted and approved by Resolution No. 12-64 on January 26, 2012 and amended by Resolution No. 12-348 on April 26, 2012, and hereby provide more specifically for the obligations of City and Owner.

Modifications to the Scope of Work and Allocations within the \$3,000,000 Maximum Amount of the previously approved SDA TIF5-Series 2012-A are as follows:

1. Within Section B. **OWNER IMPROVEMENTS, CONSTRUCTION CONTRACTS,** add the following subsection entitled **ADDITIONAL FUNDING FOR LBYD, INC. CONTRACT FOR CIVIL AND STRUCTURAL ENGINEERS FOR ENGINEERING DESIGN SERVICES FOR REDSTONE GATEWAY, PACKAGE 1F-RETAIL ROADWAY, PROJECT NO. 65-11-SP22, MODIFICATION No. 2** in the amount of \$9,282.00 to the agreement. Original contract was awarded in the amount of \$131,638.00 as adopted by Resolution No. 11-365 of May 26, 2011, and amended by Resolution No. 12-76 of January 26, 2012, by Modification No. 1 in the amount of \$48,150.00. The original contract and Modification No. 1 were funded pursuant to SDA 2010-B. This modification is for minor storm structure modifications and the addition of a ditch and associated culverts west of the test track on the south side of the development for a total modification amount of \$9,282.00 Therefore, the amount of the \$9,282.00 will be transferred from the category in Section B. **OWNER IMPROVEMENTS,** the subsection entitled "**ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED.**" Total project budget amount is now \$189,070.00.
2. Within Section B. **OWNER IMPROVEMENTS, CONSTRUCTION CONTRACTS,** add the following subsection entitled **ADDITIONAL FUNDING FOR LBYD, INC. CONTRACT FOR CIVIL AND STRUCTURAL ENGINEERS FOR ENGINEERING CONSTRUCTION ADMINISTRATION SERVICES FOR REDSTONE TECHNOLOGY PARK, PHASE I – INFRASTRUCTURE AND ROADWAY, PROJECT NO. 65-089-SP31, MODIFICATION NO. 3.** in the amount of \$30,000.00 to the agreement. The original agreement was awarded in the amount of \$25,000.00 as adopted by Resolution No. 10-1025 of December 16, 2010, and amended

\_\_\_\_\_  
President of the City Council of the  
City of Huntsville, Alabama  
Date: \_\_\_\_\_

by Modification No. 1 in the amount of \$68,000.00 by Resolution No. 11-617 on August 25, 2011, and further amended by Modification No. 2 in the amount of \$15,000.00 by Resolution No. 12-77 of January 26, 2012. This third Contract modification will provide additional construction engineering administration services during the construction of Redstone Technology Park, Phase I: Infrastructure and Roadway. Therefore, the amount of the \$ 30,000.00 will be transferred from the category in Section B. **OWNER IMPROVEMENTS**, the subsection entitled "**ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED**." Total Project Budget is now \$138,000.

3. Within Section B. **OWNER IMPROVEMENTS**, the subsection entitled "**ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED**," the amount of \$127,815.00 allocated and budgeted for undefined engineering and construction costs is hereby decreased by \$39,282.00 to \$ 88,533.00.

All other terms and conditions of the SDA TIF5-SERIES 2012-A remain unchanged.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement.

("OWNER")

L W REDSTONE COMPANY, LLC

Dated: \_\_\_\_\_, 2012

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MARYLAND       )  
COUNTY OF \_\_\_\_\_)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that \_\_\_\_\_, as \_\_\_\_\_, of LW Redstone Company, LLC, a Delaware corporation, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he, as such officer and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 2012.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

("CITY")

THE CITY OF HUNTSVILLE, ALABAMA,  
A municipal corporation

Dated: \_\_\_\_\_, 2012

By: \_\_\_\_\_  
Tommy Battle  
Its: Mayor

ATTEST:

\_\_\_\_\_  
Charles E. Hagood  
Clerk-Treasurer

STATE OF ALABAMA       )  
COUNTY OF MADISON    )

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that Tommy Battle and Charles E. Hagood, as Mayor and City Clerk-Treasurer, respectively, of the City of Huntsville, Alabama, a municipal corporation, are signed to the foregoing document, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same for and as the act of said corporation on the date the same bears date.

GIVEN under my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 2012.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

# ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Legal

Council Meeting Date: 5/24/2012

Department Contact: Peter Joffrion

Phone # 427-5026

Contract or Agreement: Mod. 2 to SDA TIF5 Series 2012-A

Document Name: Modification No. 2 to SDA TIF5 Series 2012-A

City Obligation Amount:

Total Project Budget: 189,070

Uncommitted Account Balance:

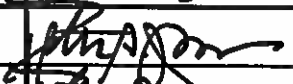
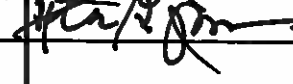

Account Number:

## Procurement Agreements

<u>Not Applicable</u>	<u>Not Applicable</u>
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## Grant-Funded Agreements

<u>Other</u>	Grant Name:
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Department	Signature	Date
1) Originating		<u>5-22-12</u>
2) Legal		<u>5-22-12</u>
3) Finance		
4) Originating		<u>5-22-12</u>
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		